

REAL PROPERTY IMPROVEMENT AND CONVEYANCE AGREEMENT

This Real Property Improvement and Conveyance Agreement (the "Agreement") is made by and between the Petersburg Borough, PO Box 329, Petersburg, Alaska 99833 (the "Borough") and Tlingit-Haida Regional Housing Authority, 5446 Jenkins Drive, Juneau, Alaska 99801 ("THRHA"), collectively referenced herein as "the Parties". This Agreement shall be effective upon the date of the last signature below ("the Effective Date").

Recitals

- A. The Borough, as successor-in-interest to the City of Petersburg, is the owner of the following described eleven (11) parcels (collectively, "the Lots"), located within the Airport Addition Subdivision (the "Subdivision"), according to Plat 77-2, recorded on March 1, 1977 in the Petersburg Recording District, First Judicial District, State of Alaska:
- Lots 25 and 26, Block 302
- Lots 7, 8, 9, and 10, Block 304; and
- Lots 11, 12, 13, 14, and 15, Block 305
- B. On August 19, 1996, the Parties entered into a Land Sale and Conveyance Agreement, whereby THRHA constructed and installed certain improvements, including roads and utilities, for a portion of the Subdivision, in exchange for conveyance of a number of parcels of real property located in the Subdivision.
- C. THRHA would now like to construct and install improvements to an additional area of the Subdivision, providing those improvements to the Lots.
- D. The improvements would consist of road construction of 14th Street, from the corner of 14th Street and Goja Street north to Fram Street, and then construction of Fram Street to the west, through and including Lot 7, Block 304 to the south and Lot 15, Block 305 to the north, and installation of electric, water, sewer and storm drainage utilities along the same route, as more specifically described in paragraph 2 below (cumulatively, the "Improvements" or the "Lot Improvements").
- E. The Improvements shall be constructed and installed in accordance with Borough standards, as set out further in paragraph 2(b) below. The construction/installation plans shall be reviewed and accepted by the Borough prior to commencement of work by THRHA at the Subdivision, and

said construction/installation shall be inspected and accepted by the Borough upon completion of the work.

- F. The cost of design, engineering, construction and installation of the Improvements to the Lots (including all required inspections) is estimated to be Two Million Seven Hundred Thousand Dollars (\$2,700,000), or approximately Two Hundred Forty Five Thousand, Four Hundred and Fifty Four Dollars (\$245,454) per Lot, and THRHA would bear One Hundred Percent (100%) of that cost, including the cost of any necessary permitting or regulatory approval.
- G. The design and engineering of the Improvements is anticipated to commence immediately upon the Effective Date, and construction and installation is estimated to be completed on or before March 31, 2026.
- H. In return for constructing and installing the Improvements, and bearing the entirety of the cost of that construction and installation of the Improvements, and only upon completion of the Improvements, THRHA would receive title to the following seven (7) lots:

Lots 25 and 26, Block 302

Lots 7, 8 and 9, Block 304; and

Lots 11 and 15, Block 305 ("the THRHA Lots").

The Assembly has determined that none of the THRHA Lots are required for municipal purposes.

- I. The remaining four (4) lots (Lot 10, Block 304; and Lots 12, 13, and 14, Block 305) will be retained by the Borough ("the Borough Lots").
- J. The 2024 assessed value of each of the THRHA Lots is Twenty Eight Thousand Dollars (\$28,000), for a total assessed value of the THRHA Lots of One Hundred Ninety Six Thousand Dollars (\$196,000).
- K. The construction and installation of Improvements to the Lots would be of substantial benefit to the community of Petersburg, which is currently experiencing a severe shortage of available housing, including available parcels of land with established available access to borough utilities. The cost of the road and utility installation to the Borough Lots, being paid in full by THRHA, would equal Nine Hundred Eighty One Thousand Eight Hundred Sixteen Dollars (\$981,816 (\$245,454 x 4))

- L. Accordingly, the Parties wish to enter into an agreement, whereby THRHA constructs and installs the Improvements to the Lots, including both the THRHA Lots and the Borough Lots, and receives in return ownership of the THRHA Lots, under the terms and conditions set forth herein.

Agreement

NOW THEREFORE, in consideration of the above and the mutual covenants and agreements herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals Incorporated. The Recitals above are incorporated here as though fully restated.
2. Installation of the Improvements. THRHA agrees to design, construct and install the Improvements to the Lots, at its sole expense, in accordance with the terms and conditions of this Agreement, including the following:

a. Prior to commencement of construction and installation of the Improvements at the Subdivision, THRHA shall present the design plans to the Borough for review and approval. The plans shall be prepared, stamped, and signed by a professional engineer holding a registered professional civil engineer license issued by the State of Alaska. The plans should include and address any required permitting or other mandatory review and approval by governmental or regulatory agencies, including without limitation any Army Corps of Engineers permit or Alaska Department of Environmental Conservation approval. THRHA cannot commence construction and installation work at the Subdivision unless and until all plans have been accepted and approved, in writing, by the Borough (the "Plans") and any required regulatory permitting and approvals have been obtained.

b. The Plans shall comply and conform with the Petersburg Borough 2012 Standard Specifications for Streets, Drainage, Utilities and Parks ("2012 Standard Specifications"), Petersburg Municipal Code (PMC) Chapters 14.04 (Water Utility), 14.08 (Sewer Utility), 14.16 (Electric Utility) and Section 18.24.070 (Major Subdivision - Streets), Rural Utility Service (RUS) standards, all other applicable laws, regulations, and ordinances, and including the following (cumulatively, the "Standards and Requirements"):

i. Roads: The extension of 14th and Fram Streets shall be designed to meet Local Access Street standard criteria set out in PMC 18.24.070F(7) and the 2012 Standard Specifications, Division 20 Earthwork, Standard Detail 20-1. Driveway culverts shall be included in the Plans and installed as appropriate to maintain free drainage throughout the Subdivision.

ii. Water and sewer mains: Must be approved for construction by the Alaska Department of Conservation (ADEC). Upon successful completion of water and sewer mains, Approvals to Operate the systems shall be secured from ADEC prior to dedication of these utilities to the

Borough. Sewer laterals shall be installed to each of the Lots and cleanouts installed at the property line. Water service lines shall be extended to each of the Lots with curb stop valves located at the property line.

iii. Extension of the primary electrical distribution system shall be designed, stamped and constructed to RUS standards. The electrical distribution system shall be capable of providing electrical service drops to each of the Lots. Electrical service drops and/or service transformers are not part of this build and will be arranged between the subsequent property owners of each of the Lots and Petersburg Municipal Power and Light when service is desired to structures built.

c. Promptly upon Borough approval of the Plans, THRHA shall commence to construct and install the Lot Improvements in conformance with the Plans. Any proposed amendments or revisions to the Plans require the written approval of the Borough.

d. THRHA's work at the Subdivision, and the work of any contractor or subcontractor of THRHA, shall be performed in conformance with all federal, state and local laws and regulations applicable to and governing that work.

e. Daily onsite inspection and monitoring of the construction and installation of the water, sewer and road improvements shall be performed, at THRHA's expense, by a third party inspector acceptable to both THRHA and the Borough. Written inspection reports shall be provided daily to the Borough Public Works Director, with photographs of the progress of the work and documentation as to the work accomplished and crew/equipment present.

Additionally, THRHA's engineer, at THRHA's expense, shall perform periodic inspections and testing, including acceptance and startup testing, as needed to ensure that the work is being performed properly and in accordance with the Plans and any approved amendments or revisions thereto. The engineer's inspection reports, including photographs, shall be promptly provided to the Borough Public Works Director following each inspection. At any time and at its own expense, the Borough may, but is not required to, conduct inspections of the work, or otherwise determine the progress of the work, with its own personnel or contractor.

The Borough has the further right to attend and witness any acceptance testing of the water lines (including without limitation pressure testing, chlorinating, flushing, bacterial testing, and final flushing) and sewer lines (pressure/leakage testing), and any pump station startup testing. THRHA shall provide written notice to the Borough Public Works Director at least three (3) business days in advance of any acceptance or startup testing.

f. THRHA shall notify the Borough, in writing, upon completion of the Improvements, and the Borough or the Borough's contractor may review and inspect the Improvements to ensure conformance with the Plans and the Standards and Requirements.

g. In the event that the Borough determines that the completed Improvements do not fully conform with the Plans, including any approved amendments or revisions, or the Standards and Requirements, written notice of the deficiencies shall be provided to THRHA, containing the modifications, repairs or corrections required to bring the Improvements into compliance. THRHA shall thereafter promptly take whatever action is necessary to modify, repair, or otherwise correct the deficiencies; upon completion of that work, THRHA shall notify the Borough that the corrections have been completed, and the Borough may re-inspect the Improvements for compliance. Upon acceptance of the Improvements, the Borough shall formally notify THRHA in writing that the Lot Improvements have been accepted hereunder.

h. The Lot Improvements shall be completed by THRHA, and accepted by the Borough, by no later than March 31, 2026. The parties may mutually agree, in writing, to extend this deadline.

i. Within six (6) months of completion of construction and installation, one (1) complete hard copy and one (1) complete electronic copy of record drawings of the completed Improvements, prepared and certified by THRHA's contractor and engineer, shall be delivered to the Borough Public Works Director. The engineer must certify that the work has been constructed and installed in accordance with the Plans, including any approved amendments or revisions, and meets the Specifications and Requirements.

3. Warranty of Improvements. Pursuant to PMC 18.26.085, THRHA shall warrant and guarantee for a period of one (1) year after acceptance by the Borough that the Improvements constructed and installed hereunder will remain in good condition and will meet operating specifications. Such warranty includes defects in design, workmanship, and materials. No bond or cash deposit is required to secure the warranty.

4. Access. The Borough shall provide to THRHA access to the Lots and the Subdivision rights-of-way as reasonably necessary for THRHA to construct and install the Improvements in accordance with the Plans.

5. No liens. If any person or entity asserts a lien against any of the Lots for labor performed upon, or materials supplied to, the Lot(s) as a result of the work to be performed hereunder by THRHA, or any contractor or subcontractor of THRHA, THRHA shall promptly pay the claim or take action necessary to remove any such claim as a lien or encumbrance against the property. This obligation survives termination of this Agreement.

6. Insurance. During any period of construction or installation of improvements by THRHA, the Borough, and its employees, officials, agents and representatives, shall be named as an additional insured on any liability policy held by THRHA which is applicable to the work at the Subdivision, including any liability policy held by a contractor or subcontractor of THRHA performing work at the Subdivision; this includes without limitation any commercial general or automobile liability policy. Further, there shall be a waiver of subrogation in favor of the Borough, and its employees, officials, agents and representatives, on any workers' compensation or employer's liability policy held by THRHA, or any contractor or subcontractor of THRHA, applicable to the work at the Subdivision. Proof of compliance with this paragraph shall be delivered to the Borough prior to commencement of any construction or installation work at the Subdivision, and prior to any renewal of the policies required under this provision.

7. Payment/Indemnification. The Parties agree that THRHA is to pay all costs and expenses incurred in connection with preparation of the Plans and construction and installation of the Lot Improvements, including all costs and expenses of obtaining required regulatory permitting and approvals. THRHA agrees to indemnify, defend, and hold harmless the Borough, and its employees, officials, agents, representatives, insurers from and against any claims, liability, damages and costs (including reimbursement of reasonable attorney fees), arising out of, as a result of, or in any way relating to, the preparation of the Plans and construction and installation of the Lot Improvements.

8. Conveyance.

a. Upon final completion and acceptance of the Lot Improvements, the Borough shall, upon the request of THRHA, convey to THRHA, via standard form Alaska Quitclaim Deed, the THRHA Lots, subject to all easements, rights-of-way and reservations, of record or not of record, including but not limited to matters which would have been disclosed by a survey or physical inspection of the Lots.

b. The Borough is not providing title insurance for the THRHA Lots. If THRHA desires to obtain title insurance, THRHA may do so at its own expense.

9. Disclaimers regarding the THRHA Lots. Conveyance of the THRHA Lots is on an "as-is, where-is" basis, in their condition as of the Effective Date and as of the date of conveyance, with all faults. The Borough is not making, and has not at any time made, any representations, guarantees or warranties of any kind or character, express or implied, with respect to, and disclaims any liability for, the Subdivision and the THRHA Lots, including without limitations, (a) habitability, quality, merchantability, or utilization or fitness for a particular purpose or use; (b) any latent or patent physical or environmental conditions; (c) the existence of soil instability, the sufficiency of any drainage, or any other matter affecting stability or structural integrity; (d) the exact location or size of any Lot, the existence of markers on the Lot, or the ability or cost of surveying the Lots; and (e) any other matter, condition or circumstance regarding

the Subdivision or the Lots. THRHA is relying solely upon its own independent investigation and study of the Subdivision and the Lots, and has not relied upon any statements, representations or warranties of the Borough, or any employee, official, agent or representative of the Borough, as to any aspect, circumstance or condition of the Subdivision or the Lots.

10. Failure to Complete Improvements; Default. If THRHA fails to timely and properly construct and install the Improvements in compliance with the Plans and the Standards and Requirements, or otherwise fails to comply with the terms and conditions of this Agreement, the Borough may, upon thirty (30) days written notice to THRHA, terminate this Agreement provided that the default has not been cured during this notice period. Upon termination, THRHA shall have no further right or interest in the THRHA Lots, and the Borough has the right, at its discretion, to sell all or some of the Lots, free of any claim or lien of THRHA, and use the proceeds derived therefrom for any purpose, including to complete construction and installation of the Improvements.

11. Representations, Warranties and Disclaimers of the Parties. Each party represents and warrants as follows:

a. All actions necessary for it to enter into and perform this Agreement and make this Agreement legally binding upon it have been obtained;

b. The execution and delivery of this Agreement, and the consummation by it of the transactions contemplated by this Agreement, will not violate any contract, agreement, order or judgment of any nature by which it is bound; and

c. There is no action, suit or proceeding pending or threatened against it which would prohibit it from completing the transaction contemplated by this Agreement.

12. Entire Agreement and Modification. This Agreement sets forth the entire understanding and agreement of the Parties with respect to the transactions contemplated hereunder. This Agreement supersedes any and all prior negotiations, discussions, agreements, and understandings between the Parties with respect to the subject matter hereof. This Agreement may not be modified or amended except by written agreement executed by the Parties.

13. Construction. Each party to this Agreement has had an opportunity for independent counsel to review and modify the Agreement. The rule of construction to the effect that any ambiguities are to be strictly construed against the drafter shall not apply to any interpretation of any provision of this Agreement.

14. Successors and Assignment. THRHA may not assign its rights, obligations or interest in this Agreement to any other person or entity without first obtaining the prior written consent of the Borough,

which consent may be given or withheld in the Borough's sole discretion. This Agreement is binding on THRHA and its successors and approved assignees.

15. Counterparts. This Agreement may be executed and delivered in counterparts, delivered by facsimile or in electronic format by email. Each such counterpart hereof shall be deemed an original instrument, but all such counterparts together shall constitute one agreement.

16. Notices. Any notices or communications required or permitted to be given under this Agreement, including any written notice of termination of this Agreement, shall be given in writing and shall be delivered (i) in person, (ii) by certified mail, postage prepaid, return receipt requested, (iii) by a commercial overnight courier that guarantees next day delivery and provides a receipt, or (iv) by electronic mail. Such notices shall be addressed as follows:

To the Borough:

c/o Borough Manager
PO Box 329
Petersburg, Alaska 99833
Email:

To THRHA:

c/o President & Chief Executive Officer
5446 Jenkins Drive
Juneau, Alaska 99801
Email:

Any such notice or communication shall be considered given or delivered, as the case may be, on the date of personal delivery, three (3) days upon deposit in the United States mail or with an overnight courier as provided above, or in the case of email transmission, upon the date sent, provided the party has proof of such sending. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice or communication. Either Party may at any time change its contact information by giving notice hereunder.

17. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect so long as the intent of the parties can be reasonably accomplished thereby.

18. Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions of this Agreement.

19. Governing Law/Waiver of Jury Trial. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alaska. The Borough and THRHA hereby waive any and all right to a trial by jury in any action or proceeding brought in connection with this Agreement. The parties consent to the jurisdiction of the courts of the State of Alaska, located in Petersburg, Alaska.

20. No Joint Venture; No Third Party Beneficiaries. This Agreement shall not be construed or interpreted to create a partnership or joint venture between the Borough and THRHA. The provisions of this Agreement and of the documents to be executed and delivered under this Agreement, are and will be for the benefit of the Borough and THRHA only and are not for the benefit of any third party. Accordingly, no third party shall have the right to enforce any provision of this Agreement.

21. Attorney Fees. If either party shall commence a legal proceeding for any relief against the other, declaratory or otherwise, arising out of this Agreement, the prevailing party shall be awarded, in addition to any other relief, a reasonable sum as attorney fees.

22. Authority. Each person executing this Agreement represents and warrants that he or she has the authority to sign on behalf of the party for whom they are signing. Each Party further represents and warrants that the execution and delivery of this Agreement has been duly authorized by all necessary action and does not and will not require any consent or approval of any other person or entity.

IN WITNESS WHEREOF the parties have hereunto executed this Agreement.

Petersburg Borough:

Tlingit-Haida Regional Housing Authority:

By: Stephen Giesbrecht
Its: Borough Manager
Dated: January _____, 2025

By: Jacqueline Pata
Its: President & CEO
Dated: January _____, 2025